IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7895 of 2005

Between:

1 The Union of India, rep. by its General Manager,
South Central Railway, Secunderabad.
2 The South Central Railway Catering Unit, rep. by its
Senior Divisional Commercial Manager, Vijayawada.

... PETITIONERS

AND

1 The Commercial Tax Officer, Seetharamapuram,
Vijayawada.
2 The Commissioner of Commercial Taxes, A.P., Hyderabad.
3 The Commercial Tax Officer, S.D.Road Circle,
Secunderabad.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or any other appropriate writ or order or direction, declaring the assessment order dt.24.03.2003 passed by the C.T.O., Seetharamapuram Circle, Vijayawada as illegal, void and inoperative, apart from being without jurisdiction and accordingly set aside the same.

Counsel for the Petitioner: MR. S.R. ASHOK, SENIOR COUNSEL FOR MR.C.V.VINITHA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following:

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ORDER: (Per BRSR,J)

The Union of India, represented by its General, Manager, South Central Railway, Secunderabad and another invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the assessment order, dated 24.03.2003, passed by the Commercial Tax Officer, Seetharamapuram Circle, Vijayawada on various grounds.

There is no dispute whatsoever that an appeal against the impugned assessment order, dated 24.03.2003 lies to the appellate authority, which the writ petitioners failed to avail and about which there is no whisper in the affidavit filed in support of the writ petition. It is not stated, much less, in any satisfactory manner as to why the writ petitioners could not avail the remedies available under the very Andhra Pradesh General Sales Tax Act. In such view of the matter, we are not inclined to entertain this judicial review application filed by the petitioners since no case,
as such, is made out for our interference.

The writ petition fails and shall accordingly stand dismissed.

However, Sri S.R. Ashok, learned Senior Counsel appearing on behalf of the petitioners-South Central Railway submits that certain remittances made by the petitioners herein have not been taken into consideration and the recovery

proceedings have been initiated for realization of whole of the amounts ignoring the remittances made by the petitioners. It is needless to direct the respondents to verify the remittances, if any, made by the petitioners and give credit to the same and proceed for realization of the balance amount only.

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B. SUDERSHAN REDDY, J.

DATE: 11.04.2005

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C.V. RAMULU, J.

GS/TS

To

1 The Commercial Tax Officer, Seetharamapuram, Vijayawada.

2 The Commissioner of Commercial Taxes, A.P., Hyderabad.

3 The Commercial Tax Officer, S.D.Road Circle, Secunderabad.

4 Two CCs to the G.P. for Commercial Taxes, High Court of A.P., Hyderabad (OUT)

5 Two CD copies